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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/816,488	03/31/2004	Kanichi Sato	04036 /LH	1222

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FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
220 Fifth Avenue
16TH Floor
NEW YORK, NY 10001-7708

EXAMINER

PAPE, JOSEPH

ART UNIT PAPER NUMBER

3612

DATE MAILED: 04/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/816,488	Applicant(s) SATO, KANICHI	
	Examiner Joseph D. Pape	Art Unit 3612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 24,25,27-29 and 31-33 is/are pending in the application.
- 4a) Of the above claim(s) 27 and 28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 24,25,29 and 31-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4/14/06</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claims 27-28 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 6/14/05.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 24-25, 29, and 31-32 are rejected under 35 U.S.C. 102(e) as being anticipated by Persson et al.

Persson et al. disclose the claimed invention including a painted outer layer 1, plastic foam layer 3, reinforcing plate 4, and sound absorbing layer 5. The inner surface of the sound absorbing material is covered by a sheet of material 6. Note that the roof member of Persson et al. is for a automobile which inherently includes a "cab" as broadly as recited which can be used for work (work machine).

Persson et al. do not disclose the foamed layer being foamed polyurethane resin nor the reinforcing plate being iron.

Section 2144.07 of the MPEP sets forth that the selection of a known material based on its suitability for its intended use supported a prima facie obviousness. See *In re Leshin*, 227 F.2d 197, 125 USPQ 416 (CCPA 1960) (selection of a known plastic to make a container of a type made of plastics prior to the invention was held to be obvious).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to construct the foam layer of Persson et al. with a plastic which is polyurethane resin because such selection of a known foamable plastic to construct a prior art device made of a foamable plastic is prima facie obvious in view of *In re Leshin*, 227 F.2d 197, 125 USPQ 416 (CCPA 1960).

Persson et al., as modified, do not disclose that the metal reinforcement is iron.

Section 2144.07 of the MPEP sets forth that the selection of a known material based on its suitability for its intended use supported a prima facie obviousness. See *In re Leshin*, 227 F.2d 197, 125 USPQ 416 (CCPA 1960) (selection of a known plastic to make a container of a type made of plastics prior to the invention was held to be obvious).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to construct the metal reinforcement of Persson et al. from iron because such selection of a known metal to construct a prior art device made of metal is prima facie obvious in view of *In re Leshin*, 227 F.2d 197, 125 USPQ 416 (CCPA 1960). Further, it would also have been obvious to construct the iron plate to have a thickness in the range of 3.2 to 4.5 mm based on the intended use absent a showing of the criticality thereof.

4. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Persson et al. in view of Kurihara.

Persson et al. as twice modified, disclose the claimed invention except for embedded fastening pieces for joining the roof member to the vehicle.

Kurihara disclose a plastic laminated roof structure with fastening pieces 16 embedded in a joint area for joining with a vehicle frame by fastening members.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the roof member of Persson et al. with fastening pieces as taught by Kurihara for providing a means for connecting the roof member to the vehicle frame structure.

Response to Arguments

5. Applicant's arguments have been considered and are at least in part moot in view of the new grounds of rejection. The arguments that focus on the method of manufacture rather than differences in the apparatus are not persuasive in that such arguments deal with supposed differences that are not claimed.

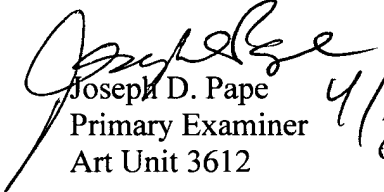
Conclusion

Art Unit: 3612

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph D. Pape whose telephone number is (571)272-6664. The examiner can normally be reached on Tuesday-Friday 6:30 AM-3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on (571)-272-6659.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Joseph D. Pape
Primary Examiner
Art Unit 3612
4/20/06

Jdp

12/19/05